

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

JUN 21 2005

JOHN F. CORCORAN, CLERK
BY: *[Signature]*
DEPUTY CLERK

ROBERT F. CRIST,)	CIVIL ACTION NO. 3:05CV00017
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
THE ROCHESTER CORPORATION,)	
)	
Defendant.)	JUDGE JAMES H. MICHAEL, JR.

Before the court is the presiding United States Magistrate Judge's Report and Recommendation of May 13, 2005. On May 12, 2005, this court entered an order granting the plaintiff's April 11, 2005 motion to voluntarily dismiss Count III of his Motion for Judgment, the only count upon which the defendant asserted subject matter jurisdiction in its removal of the case to this court from the Circuit Court of Culpeper County, Virginia. At the May 12, 2005 pretrial hearing, the plaintiff verbally moved to remand the case on the basis that only state law claims remained after the dismissal of Count III. The defendant opposed the motion on the grounds that it had filed a motion to dismiss and that the court should exercise its discretion and retain those remaining claims for an adjudication on the merits. The Magistrate Judge's Report recommended that this court overrule the defendant's objection to the plaintiff's motion to remand and grant the plaintiff's motion to remand. After a careful review of the entire record in this case, and no objection having been filed to the Magistrate Judge's Report within ten (10) days of its service upon the parties, *see* Fed. R. Civ. P. 72(b), the court accepts the Magistrate Judge's Report in its entirety. It is accordingly this day

ADJUDGED, ORDERED, and DECREED

as follows:

1. The Magistrate Judge's Report and Recommendation, filed May 13, 2005, is hereby ACCEPTED in its entirety;
 2. The defendant's objection to the plaintiff's motion to remand is hereby OVERRULED;
 3. The plaintiff's verbal motion to remand is hereby GRANTED;
 4. This action is hereby REMANDED to the Circuit Court of Culpeper County, Virginia; and
 5. The Clerk of the Court is instructed to transfer the complete record of the case to the Circuit Court of Culpeper County and to strike the case from the docket of this Court.
- The Clerk of the Court hereby is further directed to send a certified copy of this Order to all counsel of record and to Magistrate Judge Crigler.

ENTERED:

John H. Michael, Jr.
Senior United States District Judge

6-21-2005
Date